

APPEAL NO. 032903
FILED DECEMBER 11, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 6, 2003. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 10th quarter. The claimant appeals this determination. The respondent (self-insured) urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

Section 408.142 provides that an employee continues to be entitled to SIBs after the first compensable quarter if the employee: (1) has not returned to work or has earned less than 80% of the employee's average weekly wage as a direct result of the impairment; and (2) has in good faith sought employment commensurate with her ability to work. Rule 130.102(d)(4), relied upon by the claimant for SIBs entitlement in this case, states that the "good faith" criterion will be met if the employee:

has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work[.]

We have emphasized that a finding of no ability to work is a factual question for the hearing officer to resolve. The hearing officer noted that the purported narrative submitted by the claimant was insufficient to satisfy the requirements of Rule 130.102(d)(4), and concluded that the claimant is not entitled to SIBs for the 10th quarter. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**JW
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Chris Cowan
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge